

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PHILLIP SMITH, et al.,

Defendants.

Case No. 2:11-cr-00058-JAD-CWH

ORDER

This matter is before the Court on the Government's Motion to Strike Motions #132 and #134 (#136), filed on June 16, 2014. The Court also considered Defendant Phillip Smith's ("Smith") Response (#141), filed on June 25, 2014. No reply was filed by the Government.

The Government seeks to strike Smith's Motion for Bill of Particulars #132 and Motion to Suppress #134 as untimely filed. It contends that the pretrial motions deadline expired on July 5, 2012 and Smith being appointed new counsel does not constitute a sufficient justification to file new substantive motions. Further, the Government contends that most of the new discovery provided to Smith after new counsel was appointed had been provided to Smith's prior counsel. In response, Smith contends that good cause exists to waive the late filing of Motions #132 and #134 because he is entitled to effective assistance of counsel, new discovery was provided to him recently that was not in prior counsel's records, and new counsel required some time to review the totality of discovery prior to filing the motions at issue.

The Court finds that Smith has stated sufficient good cause for the late filing of Motions #132 and #134 pursuant to Federal Rule of Criminal Procedure 12. The interests of justice favor deciding a case on its merits and, therefore, the Court will allow Motions #132 and #134 to be considered and set the standard briefing schedule.

IT IS HEREBY ORDERED Government's Motion to Strike Motion #132 and Motion

1 #134 (#136) is **denied**.

2 **IT IS FURTHER ORDERED** that the Government's Responses to Motions #132 and
3 #134 shall be due by July 17, 2014 and Smith's Replies, if any, shall be due by July 23, 2014.

4 DATED: This 3rd day of July, 2014.

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7 **C.W. Hoffman, Jr.**
8 **United States Magistrate Judge**
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